

OLC 78-0545/a

Office of Legislative Counsel

15 February 1978

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

We have received and reviewed the report of the Department of Justice, provided by your Office by letter dated 3 February 1978, commenting on this Agency's proposed legislation to clarify the authority of the Director of Central Intelligence to authorize personnel to carry firearms.

We are pleased to receive formal notification that the Department of Justice concurs in the need for this proposed legislation. The Department recommends adoption of a revised paragraph for our transmittal letter which we transmitted to the Department on 20 December 1977. We, of course, do not object to such modification and will be happy to provide revised transmittal letters from the Director as soon as your Office is prepared to forward the proposal package.

In addition, the Department of Justice suggests that subsection (d)(iii) of our proposal be amended to specify an additional limitation on the Director's authority to authorize firearms protection for certain Agency officials. We do not object to this amendment, provided the Deputy Director is mentioned specifically along with the Director for such protection. Furthermore, in our view the word "personal" which appears in line 2 of the proposed Justice Department language should be deleted. The language in subsection (d)(iii) should not be so drafted that it is subject to an interpretation that would preclude designation of additional Agency personnel for firearms protection by an acting Director or Deputy Director. The intent of the Justice Department's proposed language is that the authority to authorize firearms protection for certain other Agency officials be exercised only by those individuals occupying the positions of the Director and Deputy Director of Central Intelligence. We do not object to such limitation on this authority; however, the further limitation that such designation may only be made personally by the Director or the Deputy Director arguably could be read to require that this specific authority run only to those two individuals as opposed to the individuals occupying the positions, i.e., an acting Deputy or Deputy Director. Deletion

of the word "personal" would remove this ambiguity and legislative history could provide that this authority to designate other Agency officials for firearms protection be limited only to the Director, the Deputy Director or an individual acting in that capacity and that delegation of the authority to other persons in the Agency could not be made.

Finally, the 90-day limitation contained in the Justice Department proposal could prove unnecessarily burdensome in practice and we would therefore propose that it be extended to 120 days.

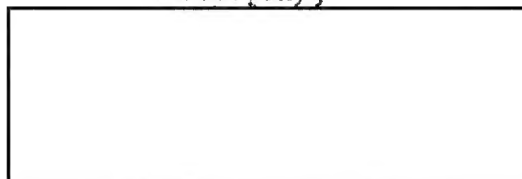
The Department of Justice indicates in its letter that it would not object to further modifications of the proposal to specifically include the Deputy Director for such protection. We have discussed with the Department of Justice the additional amendments to the proposal that would delete the term "personal" and would change the time limitation from 90 days to 120 days, and the Department indicates that such amendments would be acceptable. Taking these amendments into account, subsection (d)(iii) of the Agency's proposal would read:

"; (iii) the Director and the Deputy Director and other Agency personnel as may be designated by the Director, such designations to be made only upon determination of the Director or Deputy Director that a specific stated exigency warrants such protective action and to be terminated, unless sooner renewed in the same fashion, upon expiration of the exigency or as specified in the designation order or at the end of 120 days, whichever is sooner."

We continue to believe that timely enactment of this proposal is of significant importance to the Agency. Please advise as soon as it is appropriate for us to provide you clean copies of the revised material so as to present the proposal to the Congress.

Thank you for your help.

Sincerely,



Acting Legislative Counsel

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